Ann. Cas. 1912D 1114 (irrigation canals). Such a rule of public policy seems necessary in view of the fact that public easements are rarely excepted and parties seldom regard their existence on the land as constituting a breach of the covenant against incumbrances.

CORPORATIONS—LIABILITY OF DIRECTORS FOR SECRET PROFITS.—By a concerted scheme of all the defendants, directors of a corporation, they sold certain mineral lands to the corporation at a price greatly in excess of their intrinsic market value, taking in payment thereof stock of the corporation, thereby gaining control of the corporation and preventing any disclosure to the stockholders of the misappropriation of the company's assets. Later the defendants organized another corporation which they also controlled, and to which all the assets, good will, patents, choses in action, personal property, and business of the first corporation were transferred, the transfer being effected on the basis of an exchange share for share of the stock of the first corporation for the stock of the second corporation. The second corporation later elected a disinterested board of directors and discovered the fraud and now sues to recover the secret profits. The defendants demurred to the bill. *Held,* that the demurrer should be sustained. *United Zinc Companies* v. *Harwood et al.* (Mass. 1914), 103 N. E. 1037.

The defendants were guilty of a fraud against the first corporation for which it could either have rescinded the sale, *Ginn* v. *Almy,* 212 Mass. 486; *Cumberland Coal & Iron Co.* v. *Parish,* 42 Md. 598; *Pope* v. *Valley City Salt Co.,* 25 W. Va. 789, or sued for the secret profits, *Haywood* v. *Leeson,* 176 Mass. 310, 39 L. R. A. 725. But the suit was not brought by the old corporation. A new corporation was created. There was no attempt to consolidate and there was no statute permitting a consolidation. Had there been, the new corporation would have succeeded to all the rights, privileges, and franchises of the old and could have sued on rights of action existing in favor of the old, *Zimmer* v. *State,* 30 Ark. 677; *Meade* v. *N. Y., H. & M. Ry. Co.,* 45 Conn. 199; *Chicago, R. I. & P. Ry. Co.* v. *Moffitt,* 75 Ill. 524; *Miller* v. *Lanchester,* 45 Tenn. 514. But the old corporation still exists. Even though shorn of all its assets, it still retains its corporate entity, *State* v. *Bank of Maryland,* 6 Md. 205; *Price* v. *Holcombe,* 89 Iowa 123, and the mere right to litigate for a fraud is not assignable either in law or equity. It is not a salable asset nor such an interest in property to which the right to sue passes as incidental, *Cutter* v. *Hamlen,* 147 Mass. 471, 1 L. R. A. 429; *Emmons* v. *Barton,* 109 Cal. 662; *Life Ins. Co.* v. *Fuller,* 61 Conn. 252; *Dayton* v. *Fargo,* 45 Mich. 153; *Graham* v. *R. R. Co.,* 102 U. S. 148. The only way therefore in which the defendants can be reached is by bringing the suit in the name of the old corporation, and the demurrer was therefore properly sustained.

CORPORATIONS—WHO CAN SUE ON MORTGAGE BONDS.—Plaintiff owned mortgage bonds executed by defendant corporation, containing a clause providing for sale, suit, or entry upon and management of the mortgaged property by the trustee, after default in payment, on request of one-third of